

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

DON MURRAY,

Petitioner,

Civil No. 10-847-SU

v.

FINDINGS AND
RECOMMENDATION

STATE OF OREGON,

Respondent.

SULLIVAN, Magistrate Judge.

Petitioner filed a pro se petition under 28 U.S.C. sec. 2241 alleging that the BOP violated statutory provisions and its internal policies when it delayed his completion of the

Residential Drug Treatment Program (RDAP) following the issuance of an disciplinary incident report.

The correspondence from the court sent to petitioner at his address of record was returned to the court on August 27, 2010, as undeliverable. See, Docket Entry (#6),

Pursuant to Local Rule 83.10, a party not represented by counsel has a "continuing duty to notify, the clerk's office whenever they change their mailing address or telephone number." When mail from the court to a party cannot be delivered due to the lack of a current address, and the failure continues for sixty (60) days, the court may dismiss the action. Local Rule 83.12.

Petitioner's Petition (#2) should be denied without prejudice. This proceeding should be dismissed for petitioner's failure to keep the court informed of his address pursuant to Local Rule 83.12.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this

recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

Certificate of Appealability

Should petitioner appeal, a certificate of appealability should be denied as petitioner has not made a substantial showing of the denial of a constitutional right. See, 28 U.S.C. § 2253(c) (2).

DATED this 22nd day of December, 2010.

/s/ Patricia Sullivan
Patricia Sullivan
United States Magistrate Judge